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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/089,085	04/10/2002	Takanori Nishimura	220709US6PCT	2937
22850 7590 01/30/2007 OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			EXAMINER MONTOYA, OSCHTA I	
			ART UNIT	PAPER NUMBER
			2623	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		01/30/2007	PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/089,085

Applicant(s)

NISHIMURA ET AL.

Examiner

Oshta Montoya

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 09/07/2005.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 101***

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claim 6 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claim 6 define a medium embodying functional descriptive material. However, the claim does not define a computer-readable medium or memory and is thus non-statutory for that reason (i.e., "When functional descriptive material is recorded on some computer-readable medium it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized"). The examiner suggests amending the claim to embody the program on "computer-readable medium" or equivalent in order to make the claim statutory. Any amendment to the claim should be commensurate with its corresponding disclosure.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 5 recites the limitation "said content receivers" in line 7. There is insufficient antecedent basis for this limitation in the claim. To advance prosecution on

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the merits, the examiner will interpret "said content receivers" to be the content provider or distributor.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-8 are rejected under 35 U.S.C. 102(e) as being anticipated by Garrity et al, US 6,230,205.

Regarding claim 1, Garrity discloses a content distribution method for making a reservation to a reservation control apparatus for the use of a distribution server (Col. 7, lines 1-8) that receives content sent from a distributor terminal apparatus (102, 104, and 106) via a network (138) and carries out stream distribution of said content to a client terminal apparatus via the network (Col. 3, lines 32-57, fig. 1), sending said content from said distributor terminal apparatus (102, 104, 106) to said distribution server (136) based on said reservation and thereby carrying out content distribution, said content distribution method comprising:

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a reservation requesting step of sending reservation request information including a desired service time to distribute content using said distribution server (136) and restriction information on restrictions of the content receivers from said distributor terminal apparatus to said reservation control apparatus via the network (Col. 8, lines 30-48, Col. 9, lines 20-44);

a content transmitting step of transmitting, when the reservation for the use of said distribution server during said desired service time included in said reservation request information is accepted, the content from said distributor terminal apparatus to said distribution server via the network to carry out a content distribution based on said accepted reservation (Col. 7, lines 1-9, lines 45-62);

a judging step of judging, when said client terminal apparatus requests said distribution server to distribute content via the network, whether the distribution request of said client terminal apparatus should be accepted or not based on said restriction information (Col. 6, lines 50-67, Col. 10, lines 41-67, restriction information refers to time and bandwidth);

and a distributing step of carrying out a stream distribution, when the distribution request of said client terminal apparatus

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is accepted, of the content sent from said distributor terminal apparatus from said distribution server to said client terminal apparatus via the network (Col. 12, lines 42-60, Col. 13, lines 32-59).

Regarding claim 2, Garrity discloses the content distribution method according to claim 1, further comprising a browsing judging step of judging, when the reservation for the use of said distribution server during said desired service time included in said reservation request information is accepted, whether content distribution program information about content distribution based on said reservation should be made browsable or not based on said restriction information (Col. 4, lines 44-51); and a storing step of storing, when it is judged that said content distribution program information should be made browsable, said content distribution program information in a predetermined storage area of said reservation control apparatus in a manner browsable via the network (Col. 4, lines 58-67).

Regarding claim 3, Garrity discloses the content distribution method according to claim 1, wherein when said

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restriction information includes information that a distribution request is accepted only for a client terminal apparatus authenticated through authentication processing using a password, said judging step judges whether the distribution request should be accepted or not based on the password sent from said client terminal apparatus (Col. 10, lines 28-57).

Regarding claim 4, Garrity discloses the content distribution method according to claim 1, further comprising an authentication information transmitting step of transmitting, when said restriction information includes information indicating the contact address of the client user of the client terminal apparatus for which a content distribution is accepted, authentication information to said contact address of the client user via the network (Col. 9, lines 25-31), and wherein in said judging step, it is judged whether the authentication information sent from said client terminal apparatus matches the authentication information sent in said authentication information transmitting step or not and accepts the distribution request only when the two authentication information pieces match (fig. 6, Col.8, lines 53-64).

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Regarding claim 5, Garrity discloses a reservation control apparatus that controls reservations for live distributions of content using a distribution server that carries out stream distributions of said content to a client terminal apparatus via a network, said reservation control apparatus comprising: receiving means for receiving reservation request information including a desired service time for a content distribution using said distribution server and restriction information about restrictions on said content receivers sent from a distributor terminal apparatus requesting a live distribution of content via the network (Col. 9, lines 20-64); browsing judging means for judging, when the reservation for a content distribution using said distribution server during said desired service time included in said reservation request information is accepted, whether content distribution program information about content distribution based on said reservation should be made browsable or not based on said restriction information (Col. 4, lines 44-51); and storing means for storing, when it is judged that said content distribution program information should be made browsable, said content distribution program information in a predetermined storage area of said reservation control apparatus in a manner browsable via the network (Col. 4, lines 58-67).



Regarding claim 6, Garrity discloses a program storage medium storing a program to be executed by a reservation control apparatus that controls reservations for live distributions of content using a distribution server that carries out a stream distribution of said content to a client terminal apparatus via a network, said program comprising:

reception processing that receives reservation request information including a desired service time for a content distribution and restriction information about restrictions on said content receivers sent from a distributor terminal apparatus requesting a live distribution of content using said distribution server via the network (Col. 9, lines 20-64);

browsing judgment processing that judges, when the reservation for a content distribution using said distribution server during said desired service time included in said reservation request information is accepted, whether content distribution program information about content distribution based on said reservation should be made browsable or not based on said restriction information (Col. 4, lines 44-51); and

storing processing that stores, when it is judged that said content distribution program information should be made

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browsable, said content distribution program information in a predetermined storage area of said reservation control apparatus in a manner browsable via the network (Col. 4, lines 58-67).

Regarding claim 7, Garrity discloses a content distribution method for distributing the content uploaded by a distributor terminal apparatus via a distribution server in response to a request from a client terminal apparatus, said method comprising:

selecting a disclosure level of the content to be uploaded by said distributor terminal apparatus (Col. 6, lines 33-49);

uploading the content from said distributor terminal apparatus to said distribution server via the network to carry out a content distribution (Col. 7 lines 1-8);

judging whether content distribution program information about content distribution should be made browsable based on said disclosure level set by said distributor terminal apparatus (Col. 6, lines 38-39);

storing, when it is judged that said content distribution program information should be made browsable, said content distribution program information in a predetermined storage area of said reservation control apparatus in a manner browsable via the network (Col. 6, lines 58-64); and

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carrying out a stream distribution, when the distribution request of said client terminal apparatus is accepted (Col. 7, lines 1-8).

Regarding claim 8, Garrity discloses a content distributing system for distributing the content uploaded by a content distributor terminal apparatus in response to a request from a client terminal apparatus, said system comprising:

- a content receiving unit configured to receive the content uploaded by said distributor terminal apparatus, wherein the content is identified with a disclosure level set by said distributor terminal apparatus (Col. 6, lines 33-49);
- a judging unit configured to judge whether content distribution program information about content distribution should be made browsable based on said disclosure level set by said distributor terminal apparatus (Col. 6, lines 38-39);
- a storing unit configured to store, when it is judged that said content distribution program information should be made browsable, said content distribution program information in a predetermined storage area of said reservation control apparatus in a manner browsable via the network (Col. 6, lines 58-64); and

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a distributing unit configured to carry out a stream distribution, when the distribution request of said client terminal apparatus is accepted (Col. 7, lines 1-8).

#### Contact

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Oshta Montoya whose telephone number is (571) 270-1192. The examiner can normally be reached on Monday/Friday 7:30 to 5:00 off every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Grant can be reached on (571) 272-7294. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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